

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$6,028.54 for date of service, 06/07/01.
- b. The request was received on 05/08/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 1. UB-92
 2. EOB/TWCC 62 forms/Medical Audit summary
 3. Request for reconsideration dated 01/15/02
 - b. Additional documentation requested on 09/04/02 and received on 09/17/02
 1. Position Statement
 2. UB-92
 3. EOB/TWCC 62 forms/Medical Audit summary
 4. Medical Records
 5. Example EOBs from other Insurance Carriers
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II: No response found.
3. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of additional documentation from the Requestor on 09/19/02. The Respondent did not submit a response to the request. The "No Carrier Information Found" sheet is reflected in Exhibit II of the Commission's case file.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 09/12/02

“It is (Requestor’s) position that the primary purposes of an ambulatory surgical center are to provide the benefits of quality health care, expeditious and convenient treatment and expeditious return to work and/or daily activities all in a cost efficient manner. (Carrier) has unfairly reduced our bill when other workers’ compensation carriers have established that our charges are fair and reasonable because they are paying 85%-100% of our billed charges. Also group insurance companies are allowing 100% of our billed charges. Since we are a small facility and have not done this type of surgery before, enclosed are only 2 examples of bills for the same diagnosis of other patients and their insurance companies [sic] interpretation of fair and reasonable as shown by the amounts paid. Please consider for additional payment.”

2. Respondent: No Carrier response found.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 06/07/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$7,146.54 for services rendered on the above date in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$1118.00 for services rendered on the above date in dispute.
5. The Carrier’s EOBs deny additional reimbursement as ‘M – IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE.’
6. The Carrier did not respond to the Provider’s request for medical dispute resolution.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgical center. The provider has submitted several examples of other Carrier’s EOBs for charges billed for a similar procedure. The Carrier did not respond to the Provider’s request for medical dispute resolution. Per Rule 133.304 (i), “When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;
2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
3. reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement.”

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), “... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;”.

The Medical Review Division has to determine, based on the parties’ submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that “...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement...” pursuant to TWCC Rule 133.307 (3) (g) (D). The Requestor has attached example EOBs, which does provide some evidence. However, these example EOBs were not fully redacted. The claimant’s address remained on the EOBs. Pursuant to TWCC Rule 133.307 (g) (3) (E), “Un-redacted information or evidence shall not be considered in resolving the medical fee dispute.” Therefore, **no** additional reimbursement is recommended.

REFERENCES: The Texas Workers’ Compensation Act & Rules: Sec 413.011 (d); Rule 133.304 (i); Rule 133.307 (g) (3) (D); (j) (1) (F) and (g) (3) (E).

The above Findings and Decision are hereby issued this 18th day of February 2003.

Denise Terry
Medical Dispute Resolution Officer
Medical Review Division
DT/dt